

ORDINANCE NO. 13-11_____

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW THE CONSUMPTION OF BEER AND WINE ON THE PREMISES IN A RESTAURANT LOCATED ON PROPERTY ZONED M-2 (INDUSTRIAL DISTRICT), WHERE BEER AND WINE CONSUMPTION IN A RESTAURANT IS NOT ALLOWED, CONTRA TO HIALEAH CODE § 98-1411(a)(1). **PROPERTY LOCATED AT 3621 N.W. 54 STREET, HIALEAH, FLORIDA.** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its meeting of January 9, 2013 recommended approval of this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The below-described property is hereby granted a variance permit to allow the consumption of beer and wine on the premises in a restaurant located on property zoned M-2 (Industrial District), where beer and wine consumption in a restaurant is not allowed, contra to Hialeah Code § 98-1411(a)(1), which provides in pertinent part: “. . . The permitted uses of the M-2 industrial district are the following: (1) All uses permitted in the M-1 industrial district [which refers to Hialeah Code § 981371(a)(1), which provides in pertinent part: “The permitted uses of the M-1 industrial district are as follows: (1) Any uses permitted in a C-2 liberal retail commercial district, except that restaurants shall not sell, offer for sale, deliver, serve or permit to be consumed on the premises any alcoholic beverages, wine and/or beer . . .” Property

located at 3621 N.W. 54 Street, Hialeah, Miami-Dade County, Florida and legally described as follows:

THE EAST 50 FEET OF LOT 2, BLOCK 5, PAN AMERICAN TERMINALS, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 50, PAGE 71, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 4: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 5: Effective Date.

Section 5: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

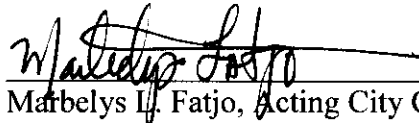
PASSED and ADOPTED this 26th day of February, 2013.


THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.


Isis Garcia Martinez
Council President

Attest:

Approved on this 27 day of February, 2013.


Marbelys L. Fatjo, Acting City Clerk


Mayor Carlos Hernandez

Approved as to form and legal sufficiency:


William M. Grodnick, City Attorney

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Ordinance was adopted by a unanimous vote with Councilmembers, Caragol, Casals-Muñoz, Cue-Fuente, Garcia-Martinez, Gonzalez, Hernandez and Lozano voting "Yes".